

**NEVADA STATE WELFARE DIVISION  
PUBLIC HEARING TO ADOPT REGULATIONS**

The Public Hearing to Adopt Regulations was brought to order by Nancy Ford, Welfare Division Administrator, at 9:02 a.m. on Wednesday, October 27, 2004. This hearing is being video-conferenced between the Legislature Building, 401 South Carson Street, Room 2134, Carson City, Nevada and the Grant Sawyer Building, 555 East Washington Avenue, Room 4412, Las Vegas, Nevada.

**STAFF PRESENT**

Nancy K. Ford, Administrator  
Gary Stagliano, Deputy Administrator  
Louise Bush, Chief, Child Support Enforcement  
Vicki Kemp, Eligibility Program Specialist  
David Castagnola, Child Support Program Specialist  
Debbie Fazzino, Child Support Program Specialist  
Rose Ramos, Child Support Program Specialist  
Sharon Vail, Employee Development Manager  
Miki Primus, Staff Specialist  
Lynette Giles, Executive Assistant  
Amanda Aseph, Administrative Assistant  
Laurie Buck, Deputy Attorney General

**GUESTS PRESENT**

Susan Hallahan, Washoe County District Attorney's Office  
Robert J. Gardner, Clark County District Attorney's Office

Ms. Ford opened the public hearing at 9:02 a.m. She explained the hearing is being video-conferenced between Carson City and Las Vegas. It is also being broadcast on the Internet. She briefly reviewed the items being heard. The hearing was properly noticed per the Open Meeting Law. She noted there are only two items on the agenda and will begin with agenda item two first.

**I. CHILD SUPPORT ENFORCEMENT PROGRAM MANUAL:**

Ms. Ford introduced the staff on the panel. She explained a public workshop was held on child support penalties for non-custodial parents (NCP) not current with their child support payments. It was apparent then this was a controversial issue.

Suggestions on how to apply the penalty included a one time assessment on the amount delinquent to encourage the obligor to pay timely and an interest assessment on the past due amount until paid. At the public workshop, Susan Hallahan, Washoe County District Attorney's Office and Bob Tueten, Clark County District Attorney's Office requested an Attorney General's formal opinion about the subject, which must be submitted in writing. Ms. Ford submitted the request and the opinion is available with the meeting handouts. After an extensive analysis of legislative history, it was decided the penalty would be 10% of the current child support obligation if not received in the month it is due. Mr. Castagnola stated why this change was being proposed. Nevada Revised Statutes states the amount of the penalty is 10% of the past due child support installment or a portion thereof and justifies the 10% flat fee on the amount past due. Due to the ambiguity of the law, legislative intent must be taken into consideration. He reviewed the handout and charts. He noted any penalties received from an obligor will be sent to the family and all penalty collections will be distributed via federal law and not reported as a payment.

Robert Gardner stated he was asked to attend on behalf of Elana Hatch and Bob Tueten. He read Ms. Hatch's testimony into the record and thanked Don Winne for providing the Attorney General opinion. A copy of Ms. Hatch's testimony was provided. He asked for clarification on the chart showing an example of only \$400 per month paid when it shows \$500 month is due and asked why no penalty was assessed. Ms. Ford replied in order to receive a past-due penalty, the past-due amount must equal the amount due for one month's child support. Mr. Gardner then asked for the Attorney General's opinion to be a published opinion so their office can defend the penalty regulation in court and clearly explain to the NCP why the penalties are being charged. Ms. Ford stated she received Ms. Hatch's testimony and it will be a part of the record for this meeting. She will make the request to the Attorney General's office, on behalf of the District Attorneys, to publish the Attorney General opinion on this subject.

Susan Hallahan stated she is mirroring the request for the Attorney General's opinion to be published. She had also received Ms. Hatch's testimony and disagrees with the comment on how the penalty is being used to compensate the obligee. She does not have a problem with the way the state wants to handle child support penalties. She does have concerns about wage withholdings and penalties being assessed incorrectly because wage withholdings can sometimes be late and then unwarranted penalties would be assessed. Mr. Stagliano stated system programming was reviewed and the date payment is received is looked at to assess a penalty. A discussion regarding wage withholding and child support penalty assessments ensued. Ms. Hallahan wants to ask the 2005 Legislature, via a bill draft request, to allow courts to waive penalties, similar to the interest statute. Ms. Ford said the statute is to encourage parents who are delinquent paying child support to pay their child support timely and asked Don Winne, Deputy Attorney General, if something could be put in the regulation about the penalties not being applicable to those who pay their child support via wage withholding. Mr. Winne said there is no precedence for exempting those parents paying child support via wage withholdings versus those who pay their child support directly. He would not advise putting the exemption into the regulation. Ms. Ford noted Mr. Stagliano said the computer system could be programmed to include a grace period before a penalty is assessed to address the issue until the Legislature can do so. Mr. Stagliano asked if a grace

period to the fifth of the month is long enough to address her concerns. Ms. Hallahan said no, because the grace period payment would apply to the previous month and possibly leave the current month delinquent. She also believes the remedy to her concerns cannot be taken care of via regulation, but is something the 2005 Legislature should address. Ms. Ford suggested the statute have an addendum to allow the courts to waive the penalty. Ms. Hallahan would like to see the penalties assessed the same way interest is with the courts allowed to waive it. Mr. Winne commented if a non-custodial parent has wage withholding for child support payments, it still doesn't relieve them of the amount owed. Ms. Hallahan stated withholdings are usually prorated annually and does not believe there is a simple fix for this concern and believes it needs to be clarified. Mr. Winne noted the 2003 Legislature did not have sympathy for delinquent obligors and is the reason why the statute was passed. Ms. Hallahan clarified she is not recommending the regulation not be passed, but would like the Attorney General's opinion be published for the attorneys fighting the cases in court. She does not disagree with how the penalty is calculated. A discussion followed regarding penalties for those who pay child support via wage withholdings. Ms. Ford stated she will request the Attorney General's opinion be published on behalf of the district attorneys and the opinion reflects legislative intent of the statute. Treating penalties the same as interest does not meet legislative intent.

Hearing no further comment, Ms. Ford adopted the policy as presented by staff on behalf of the Director of the Department of Human Resources, effective November 1, 2004.

## **II. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES POLICY MANUAL:**

Vicki Kemp reported this policy will change the effective date of TANF underpayments and who it affects. If changes were reported timely, the underpayment will be calculated promptly. If a change is not reported timely, the underpayment will be effective on the date the change is noted.

Hearing no comment, Ms. Ford adopted the change to the TANF State Plan on behalf of the Director of the Department of Human Resources, effective November 1, 2004.

## **III. GENERAL PUBLIC COMMENTS:**

None received.

Hearing no further comment, Ms. Ford thanked those in attendance for their participation and closed the hearing at 9:36 a.m.